

In The Matter of )

Connect America Fund ) WC Docket No. 10-90

A National Broadband Plan for Our Future ) GN Docket No. 09-51

High-Cost Universal Service Support ) WC Docket No. 05-337

## Comments of Wiggins Telephone Association (hereinafter "Wiggins" to Notice of Inquiry and Notice of Proposed Rulemaking

Before any one can make reply to the questions in this Notice of Inquiry and Notice of Proposed Rulemaking, one should know the meaning of the terms used and the conceptual basis of the comments to be made. Since the whole of the legal system is based on words, the meanings of the words are vital to preparing comments. Without a definition of the terms used and the conceptual basis of the questions asked, there is great likelihood of miscommunications between those commenting on the questions asked and those reading the comments.

Firstly, is broadband Internet considered functionally integrated information service, under Title 1 as provided by cable providers or, is Internet a functionally separate information service provided under Title 1 over broadband a telecommunications service provided under Title 2 of the Telecommunications Act as provided by small rural telephone companies like ours?

Secondly, Does the Commission consider broadband and/or Internet to be an advanced telecommunication and information service? The Commission has a duty as set forth by Congress in Section 254 (b) (3) of the Act to provide "access to telecommunications and information services, including interexchange service and advanced telecommunications and information services, that are reasonably comparable to those services provide in urban areas and that are available at rates that are reasonably comparable to rates charge for similar service in urban areas." This being the case how does the Commission reconcile its duty to 47 CFR, Section 254 (b) (3) with its recommendation in the NBP of only 4 Mega Bits of speed in rural areas and 100 Mega Bits of speed in urban areas?

Thirdly, Does the Commission believe large companies using price caps and cost models are a success story in the provision of broadband/Internet service in rural areas? We respectfully request to see the Commission's definition of "success" here. We believe large companies using price caps and cost models have been pretty much a failure or disaster in the provision of broadband/Internet in rural areas. Price caps and cost models have not done anything for rural America yet, and we don't expect that it will in the future either. The small rural rate of return cost companies have successfully provisioned broadband Internet to rural, insular and high cost areas, and where they have not completed their work, planning is well underway to do so. Why would the Commission want to destroy what is working, like rate of return regulation and put in place something that is not working, like price caps and cost models in rural areas?

Fourthly, how many of the policy making staff of the Commission has lived or even visited rural America? We believe before the policy making staff of the Commission makes policy affecting rural America they should spend as much time in the realities of rural America, the rural, insular and high

cost areas as in the discussion of theories of economics that may or may not ever work in rural America. It would then be quite a bit easier to see that our situation is not the same as large companies, as cooperatives our customers are our member-owners and to a great extent are our regulators. We extend an invitation for some Commission staff members to visit our cooperative. Without first hand knowledge of rural, insular and high cost areas by Commission, how will the Commission keep telecommunications in rural areas from ending up like the industries of railroad, airlines, buses and etc? These services no longer exist in rural America!

Fifthly, Has the Commission considered the significant cost inefficiencies price caps will cause in rural America? Because of rate of return regulation, the cost of construction of new plant is currently done in many cases, once in every thirty to forty five years with large contracts and standardized equipment. Large contracts lower the unit cost of equipment and standardized equipment lowers the maintenance and inventory costs. Under price caps small rural companies could only replace plant in small quantities, thus raising the cost per unit significantly and because of the significant changes in technology; each year's purchases would change from the prior years, thus causing mismatched plant and higher inventory and maintenance costs. Has the NBP or the Commission considered these facts in there recommendations?

Sixthly, Has the Commission or its staff made any attempt to define what the size of the Universal Service fund would have been if all the agreements made by the Commission and the current price cap companies since 1984, to become price cap companies, to get out of the NECA common line pools and etc. similar to the Sprint and Verizon Wireless Voluntary Commitments, had been recorded and tallied? These agreements would include large companies agreeing to be responsible for their own rural areas instead of first paying into and then drawing from the USF. The size of the fund would be considerably larger than it is today, maybe even double. It now appears as if these same companies are ready to receive funding under the NBP when broadband/Internet should be classified as a universal service, for which the large price cap companies should be held responsible. The USF has never been fully funded; it has included amounts for the small rural rate of return carriers and some amounts for none rural carriers, but never an amount to cover all of the insular, rural and high cost areas of America as required by Section 254 of the act.

Seventhly, Does the Commission and its staff understand it was in the sixties and seventies that large portions of rural America was provisioned with single party service by the small rural telephone companies? Now in 2010, some of these small rural telephone companies have upgraded their plant, some are in progress and some are planning on upgrading their plant. These upgrades are required to provide the required quality ?legacy? telephone service, but at the same time by using fiber to the home the systems are capable of providing 100 Mega Bits of service and up to 1 Giga Bit of service all at the same inflation adjusted cost of providing single party service place in service thirty to forty five years ago. By the NBP suggesting the USF be frozen on a per line basis, only those small rural telephone companies who have finished their upgrades and are receiving their updated USF would survive. Those companies in the process of upgrading and planning on upgrading would not be able to upgrade and survive because ?legacy? telephone revenues are not at a survivable levels without

broadband/Internet, even with high cost support today. Furthermore the Commission has made additional requirements on our staffs in the form of data request and forms to be filled out, while capping the General and Administrative costs at extraordinary low levels, at a time when access lines were inflated with second lines for dial up Internet. Now with DSL the second lines are gone, but the Commission has not adjusted the cap for General and Administrative costs for those losses of lines. Were these factors considered in the NBP and its recommendations?

Eighthly, The NBP recommends not only the continued capping of the USF but also ICLS and LSS funding as well. Does the Commission and its staff realize the capping of the USF fund has transferred over \$10.00 per access line per month to the rural rate payer over the last ten years? Does the Commission and its staff realize the ability to recover any more costs from the ?legacy? telephone network is extremely limited to non-existent? The only place to recover this \$10.00 per access line per month is from broadband/Internet and said increase in price is excluding some of our subscribers from purchasing broadband/Internet. Does the Commission and its staff realize that capping the ICLS and LSS in addition to USF and freezing everything on a per line basis, is a sure way to eliminate many small rural rate of return companies and leave even those areas with broadband/Internet without telecommunications tomorrow?

Finally, while the price caps and cost models may have worked well in urban areas, they have been failures in rural areas. Sixty five percent of the unserved areas are in the service territories of these large price cap/cost model companies, a failure for rural areas. While the Commission may have found that ?the use of embedded cost to calculate universal service support would lead to subsidization of inefficient carriers at the expense of efficient carriers and could create disincentives for carriers to operate efficiently?, our observation is the use of embedded costs to calculate universal service support does provide broadband/Internet to rural areas as shown by the small rural rate of return companies. What policy or failsafe measures does the Commission have in mind for the provision of rural telecommunications service when the current a rate of return company fails as many certainly will under freezing of support, price caps and cost models? Certainly, no failsafe measures were outlined in the NPB or this NOI and NPRM. Will the Commission do anything for those rural Americans who will lose telecommunications service in rural areas in the future? We believe rural Americans will not be heard by the Commission because they will be a small minority and the losses will happen over a period of time instead of all at once, making their voice only an annoyance and not an issue that needs to be resolved. Telecommunication is rural America will go the route of railroad, buses, airlines and etc.

Wiggins?s further comments will be made under the assumption that Internet is an information service provided over a broadband telecommunications service in the manner we are providing it today.

Internet service as provided by an ISP in the service areas of the small rural rate of return telephone carriers is provided over a special access telecommunications service via a DSL or DSL type facilities under tariffs filed with and approved by the Commission.

The provision of quality telephone service and a special access broadband pipeline or access service

is what the small rural carriers provide today so we fail to see why the Commission is trying to portray them as such different services. A telephone system for voice grade telephone and a broadband network are very much alike, the only difference is between switching packs verses switching messages, please look at the following:

Telephone System	Broadband Network
Local loop (copper/fiber cable)	Last Mile (copper/fiber cable)
(subscriber carrier)	(subscriber carrier)
Switch (message switch)	Router (packet switch)
Transport	Middle Mile or Transport
Billing and Collections	Billing and Collections
Special Access	Special Access, including Digital Subscriber Carrier (DSL)

Currently the local loop is funded by USF and ICLS, the Switch is funded by access and LSS, Transport funded by access, Billing and Collections funded by local rates and contract and Special Access funded by access. In the past the Commission has failed to deal with the true nature of the high cost (low density and long distance) of Transport for the Telephone System, which should have included high cost funding, but instead was left to high access charges for transport. This has lead to additional problems for the Commission such as arbitrage.

The NOI and NPRM states in paragraph 3, "The intent of these proposals is to eliminate the indirect funding of broadband capable networks today through our legacy high-cost programs, which is occurring without transparency or accountability for the use of funds to extend broadband." What transparency and accountability is the Commission seeking that is not available with rulemaking and some new rules? Our so called "legacy telephone network" is our robust broadband network of tomorrow, so what change in our cost allocations does the Commission want to see? Change the rules, we will deliver the results. The use of "without transparency or accountability is charge without merit or credibility, when the Commission has the ability to make rules to eliminate any lack of transparency or accountability.

The NOI and NPRM at paragraph 10 states "The NBP" states that the Commission's "goal should be to replace all the legacy High Cost programs with a new program that preserves the connectivity that Americans have today, an advances universal broadband in the 21st century." The NBP does not lay out a coherent reason for the need for change from the High Cost programs of today to a new program for tomorrow. Our telephone plant of today is our robust broadband network of tomorrow. Is this an area where the definition of broadband Internet being a functionally integrated service or a functionally separate service would guide us on our response?

Wiggins serves an area of two thousand plus square mile in Northeastern Colorado, an area over 1.75 times the size of Rhode Island with approximately 1,500 subscribers. Wiggins is in the process of a complete rebuild of its plant with fiber to the home, capable of 100 Mega Bits to each home and may soon have the capability of one Giga Bit of capacity. The plant Wiggins had installed some thirty five years ago was now full to capacity and no longer had the capacity or quality to provide DSL service. Wiggins in evaluating the cost of the rebuild, evaluated the cost of copper, fiber as well as

wireless service. The cost of the copper and the fiber were so close that it would have been illogical to place copper in the ground. In the case of wireless, the estimated cost was lower, but also with very limited capacity, but then with the upgrades required to increase the capacity of the wireless, it also became more expensive than fiber to the home in the long term. The problem we have to deal with in Northeastern Colorado is that the rural people live in the valleys where they can find water, so almost every home would require a cell tower for wireless service. Fiber to the home, while quite expensive, was the only feasible method of providing quality facilities needed to maintain the so called "legacy" telephone network. The provision of broadband Internet to the Wiggins subscribers is an added benefit of the fiber network.

Should the Commission freeze the per line support at the 2008 or 2010 levels for USF, ICLS and LSS, Wiggins would either have to renegotiate its loans with the Rural Utilities Services, if such a large renegotiation would be possible or go out of business through bankruptcy. This scenario just shows how different life is like in small companies in rural America as opposed to large companies in urban America.

Respectfully Submitted,

Terry Hendrickson  
General Manager/Chief Executive Officer  
Wiggins Telephone Association